REMARKS

The Office Action mailed December 10, 2009 and the Advisory Action mailed March 25, 2010 have been reviewed and carefully considered. Claims 1–8 and 26 are pending in this application. Claim 1 has been amended. No new matter has been added. Reconsideration of the rejections in view of the following arguments and amendments is respectfully solicited.

Claims 1-3 and 5-7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,466,832 to Zuqert et al. (hereinafter "Zuqert") in view of U.S. Patent No. 4,940,951 to Sakamoto (hereinafter "Sakamoto").

Claim 1 recites, *inter alia*, "a processor (34) for polling the decoder for detecting a loss of phase lock condition." Claim 7 recites analogous language. The Examiner concedes that Zuqert does not disclose this element, but asserts instead that Sakamoto teaches it. The Examiner further states that Sakamoto's PLL "actively checks" a decoder for loss of a phase lock condition, and that such checking reads on the claimed polling.

Applicant has, on multiple occasions, pointed out to the Examiner that Zuqert and/or Sakamoto, taken alone or in combination, fail to disclose or suggest "polling." Applicant has provided evidence of how this term is used in the art. The Examiner responds in the Advisory Action to assert that "the decoder only decodes, it lacks a function of receiving and responding to a request data."

The Examiner's assertion is false. Reference to FIG. 3 clearly depicts the processor 34 and the EFM decoder 32 having *two-way* communication over an I2C bus. The processor 34 has direct control over the decoder 32, as is further shown by the present specification on page 4, lines 24–26. Thus, it is entirely reasonable for the processor 34 to actively query the decoder 32 to detect a loss of a lock condition.

Applicant now firmly asserts that the Examiner's interpretation of "polling" is *not* reasonable. It is contrary to how that term is used in the art. The Examiner is reminded that the words of a claim must be given their **plain meaning**, and that "plain meaning" refers to the "ordinary and customary meaning given to the term by those of ordinary skill in the art." MPEP § 2111.01.

MPEP § 2111.01(III) goes on to state, "The ordinary and customary meaning of a term may be evidenced by a variety of sources, including 'the words of the claims themselves, the remainder of the specification, the prosecution history, **and extrinsic evidence concerning relevant scientific principles, the meaning of technical terms, and the state of the art.**'" (quoting Phillips v. AWH Corp., 415 F.3d at 1314) (emphasis added). Applicant has provided a dictionary definition of the term "polling," taken from a source that is dedicated to terms related to computer and electronics technology. This is strong evidence of how the term "polling" is used in the art. The Examiner did not attempt to interpret, undermine, or otherwise contradict the evidence that Applicant presented.

For the sake of convenience, Applicants now repeat the commonly accepted definition for "polling" that was provided in the previous response. Webpoedia, located at http://www.webopedia.com, most relevantly defines "polling" as:

> **(2)** Making continuous requests for data from another device. For example, modems that support polling can call another system and request data.

This is the **plain meaning** of the term as recognized by those having ordinary skill in the art, and **must** be considered when interpreting the present claims.

The Examiner states in the Advisory Action that "the specification provides no detail of the polling means" and "fails to mention the processor sends any request data." Applicants firmly assert that the specification *fully supports* this functionality merely through

its use of the word "polling." Those having ordinary skill in the art would understand this simply from the *plain meaning* of the term.

In light of this, Applicants amend claim 1 to explicitly state, "wherein said polling includes requesting information regarding the lock condition from the decoder." As shown above, this amendment is *fully* supported by the present specification.

As noted previously, and contrary to the Examiner's assertions, Sakamoto does not disclose or suggest any sort of polling, and it certainly does not disclose or suggest making requests to a decoder regarding lock condition. Sakamoto's PLL monitors the output of the phase comparator 14a but, as noted in the previous response, it does so *passively*. The Examiner asserts that Sakamoto's "detecting whether a phase unlocked state occurred in the PLL circuit" represents an "active" checking of a status. However, a simple reading of Sakamoto shows that its detection circuit is entirely **passive**. Sakamoto's error detection section 20a merely accepts PCM data and looks for errors. This *cannot* be reasonably interpreted to read upon the currently recited "polling the decoder" and *certainly* cannot be seen as requesting information from a decoder. Taken from the perspective of basic English grammar, "to poll" is a transitive verb that requires an *object*. In other words, the verb requires that the processor take some **action** upon the claimed decoder. Sakamoto's error detection circuit does not. The Examiner is strongly encouraged to reconsider this argument.

It is therefore respectfully asserted that Zuqert and/or Sakamoto, taken alone or in combination, fail to disclose or suggest polling the detector for detecting a loss of phase lock condition, or doing so by making requests to a decoder. For at least this reason, it is believed that claims 1 and 7 are in condition for allowance. Because claims 2–3 and 5–6 depend from claim 1 and include all of its elements, it is believed that claims 2–3 and 5–6 are also in condition for allowance. Reconsideration of the rejection is earnestly solicited.

Claims 4 and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Zuqert in view of Sakamoto and further in view of U.S. Patent No. 6,389,548 to Bowles (hereinafter "Bowles").

Claims 4 and 8 depend from claims 1 and 7 respectively and therefore include all of the elements of their parent claims. Bowles cannot cure the deficiencies of Zuqert and Sakamoto described above. It is therefore respectfully asserted that Zuqert, Sakamoto, and/or Bowles, taken alone or in any combination, fail to disclose or suggest all of the elements of claims 4 and 8. It is therefore believed that claims 4 and 8 are in condition for allowance. Reconsideration of the rejection is earnestly solicited.

Claim 26 was rejected under 35 U.S.C. §103(a) as being unpatentable over Zuqert in view of Sakamoto and further in view of U.S. Patent Publication No. 2002/0072817 to Champion (hereinafter "Champion").

Claim 26 depends from claim 1 and therefore includes all of its elements. Champion cannot cure the deficiencies of Zuqert and Sakamoto described above. It is therefore respectfully asserted that Zuqert, Sakamoto, and/or Champion, taken alone or in any combination, fail to disclose or suggest all of the elements of claim 26. It is therefore believed that claim 26 is in condition for allowance. Reconsideration of the rejection is earnestly solicited.

Claims 1-8 and 26 stand provisionally rejected on the ground of non-statutory obviousness type double patenting as being unpatentable over claims 1, and 7–8 of co-pending U.S. Application Serial No. 10/516859 in view of Zuqert. Applicant will consider

filing a duly executed Terminal Disclaimer in compliance with 37 C.F.R. 1.321 to overcome this rejection upon resolution of all other existing matters.

It is therefore respectfully submitted that the present invention is not disclosed or suggested by the cited references taken alone or in combination. Claims 1-8 and 26 are believed to be in condition for allowance for at least the reasons stated above. Withdrawal of all the rejections and early and favorable reconsideration of the case is respectfully requested.

In view of the foregoing, Applicants respectfully request that the rejection of the claims set forth in the Final Office Action be withdrawn, that the pending claims be allowed, and that the case proceed to early issuance of Letters Patent in due course.

It is believed that no further additional fees or charges are currently due. However, in the event that any additional fees or charges are required at this time in connection with the application, they may be charged to applicants' Deposit Account No. 07-0832.

Respectfully submitted,

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